



DEBT COLLECTION

15 U.S.C. §§ 1692

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If you use credit cards, owe money on a loan, or are paying off a home mortgage, you are a “debtor.” Hopefully, you will never come in contact with a debt collector, but if you do, know that a law exists to ensure you are treated fairly. The Fair Debt Collection Practices Act (FDCPA) was passed by Congress in 1978 to prohibit certain methods of debt collection. The law does not erase any legitimate debt you owe; it simply regulates the methods debt collectors may use to collect funds from you. The FDCPA is codified under 15 U.S.C. §1692. The complete text of the FDCPA is available at <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre27.pdf>.

What Debts are Covered?

Personal, family, and household debts are covered under the FDCPA. For example, debts owed for the purchase of a car, for medical care, or for charge accounts are under the Act's purview.

Who is a Debt Collector?

A debt collector is anyone who regularly collects debts for others. *Therefore, the FDCPA does not apply to the creditor himself/herself.* It will be applicable to a creditor only when he/she employs another name to collect the debt, creating the appearance of an independent third party. It *does* apply to attorneys who collect debts on behalf of creditor clients.

How May a Debt Collector Contact You?

- A debt collector may contact you in person, or by mail, or telephone, (but not by post card).
- A debt collector cannot contact you before 8 a.m. or after 9 p.m., unless you have given permission to be contacted at another time or the debt collector has a court order.
- If you have an attorney, the debt collector *must* contact the attorney, not you. The attorney's identity must be known or readily determinable.
- A debt collector cannot contact you at your place of employment if the collector knows or has reason to know your employer prohibits such contact. Military commanders and supervisors are considered “employers” under this rule.
- Debt collectors cannot contact third parties, except in special circumstances. If a debt collector contacts a third party to locate you, they may not make any remarks concerning your indebtedness.

- Within five days of initial contact, the collector must provide you specific information regarding the debt and dispute process. Information must include the amount of debt, name of the creditor, and a statement indicating assumption that the debt is valid if you do not indicate otherwise.

The above rules also apply to contact with the debtor's spouse, parent (if the debtor is a minor), guardian, or executor/administrator (if the debtor is deceased).

Can You Stop a Debt Collector from Contacting You?

You may stop a debt collector from contacting you by writing a letter to the collection agency instructing them to cease any contact with you; indicate your refusal to pay otherwise. The collector may then contact you for three reasons--to inform you they are ceasing collection efforts, to inform you they (or the creditor) *may* take specific legal action, or to inform you they (or the creditor) *are* taking specific legal action.

Debt Collectors May Not Do the Following:

- Harass, abuse or use false/misleading representations. Harassment includes immediately re-calling the consumer who has hung up the telephone on the collector.
- Falsely imply you have committed a crime.
- Falsely represent that they work for a credit reporting agency.
- Misrepresent the amount of the debt.
- Indicate documents sent are legal forms or are sent by an attorney when they are not.
- Indicate documents sent are not legal forms when they are.
- Give false credit information concerning you to anyone.
- Use any false name.
- Send you a document that appears to be sent by a court, federal government agency, or state/local government agency.
- Indicate you will be arrested if you do not pay the debt.
- Indicate they will take, garnish, attach, or sell your property or wages, *unless* they or the creditor intends to do so; legal grounds must exist.

Unfair Practices

- To collect an amount greater than the debt, unless allowed by law.
- To deposit a post-dated check before the date on the check. *Note:* A creditor can deposit a check on the date of the check even if you tell them to wait.
- To force you to accept collect calls or pay for telegrams.
- To contact you by post card.
- To take or threaten to take property without legal process.

Civil Liability

A collector who violates any provision of the FDCPA is liable to the debtor for the sum of:

- Actual losses incurred due to the collector's violation; and
- Additional damages up to \$1,000 (for individuals who sue).

Who to Contact

If you feel a debt collector has violated any of the above rules, contact the Consumer Financial Protection Bureau at <http://www.consumerfinance.gov/servicemembers/> and submit a complaint online or send an email to military@cfpb.gov.

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